



# NEWS

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## **SUMMARY OF CASES ACCEPTED DURING THE WEEK OF OCTOBER 27, 2003**

[This news release is issued to inform the public and the press of cases that the Supreme Court has accepted and of their general subject matter. The description or descriptions set out below do not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

#03-132 Kinsman v. Unocal Corporation, S118561. (A093424; 110 Cal.App.4th 826; San Francisco County Superior Court; 308646.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case includes the following issue: Is a landowner's liability under Rowland v. Christian (1968) 69 Cal.2d 108 with respect to a concealed hazardous condition on its property limited by the principles of Privette v. Superior Court (1993) 5 Cal.4th 689 and its progeny where the concealed condition allegedly causes injury to an employee of an independent contractor hired by the landowner?

### **DISPOSITIONS**

The following cases were dismissed and remanded to the Court of Appeal:

#02-58 People v. Chico, S104024.

#02-64 People v. Schlager, S104634.

The following cases were transferred to the Court of Appeal for reconsideration in light of Jarrow Formulas, Inc. v. LaMarche (2003) 31 Cal.4th 728:

#02-184 Soukup v. Law Offices of Hafif, S109615.

#03-09 Soukup v. Hafif, S111545.

(over)

## STATUS

#01-83 John L. v. Superior Court, S098158. The court solicited supplemental briefs, limited to the following issues: (1) As a matter of statutory construction, do the amendments made by the Gang Violence and Juvenile Crime Prevention Initiative (Prop. 21, Primary Elec. (Mar. 7, 2000)) to Welfare and Institutions Code section 777 apply to all proceedings conducted under section 777 after the effective date of the amendments, regardless of the date on which the criminal or other conduct that underlies the proceedings took place? (2) What is the effect, if any, of In re Eddie M. (2003) 31 Cal.4th 480 on petitioners' argument that, as applied to them, the amendments to section 777 involve increased "punishment" for a crime/crimes committed prior to the effective date of the amendments, in violation of the ex post facto clause of the United States Constitution? (See U.S. Const., art. I, § 9, cl. 3.)

#01-118 In re Alva, S098928. The court solicited a response to the respondent's supplemental brief, limited to the following issue: What is the effect, if any, of Smith v. Doe (2003) \_\_\_ U.S. \_\_\_ [123 S.Ct. 1140] on the issues presented by this case?

#01-119 In re Walter S., S099120. The court solicited supplemental briefs, limited to the following issue: What is the effect, if any, of Smith v. Doe (2003) \_\_\_ U.S. \_\_\_ [123 S.Ct. 1140] on the issues presented by this case?

## CORRECTION

The weekly summary for December 9, 2002, contained errors for the following case. The corrected summary is the following:

#02-199 People v. Wilkinson, S111028. (B145982, B154520; 102 Cal.App.4th 72.) Petition for review after the Court of Appeal reversed in part and vacated with directions in part a judgment of conviction of criminal offenses, and issued an order to show cause returnable before the trial court on a petition for writ of habeas corpus. This case presents the following issues: (1) Does the statutory scheme permitting battery on a custodial officer to be charged as a straight felony, a straight misdemeanor, or a felony/misdemeanor "wobbler" (see Pen. Code, §§ 243, 243.1) violate equal protection? (2) Was defendant entitled to a Kelly/Frye hearing (see People v. Kelly (1976) 17 Cal.3d 24; Frye v. United States (D.C. Cir. 1923) 293 F. 1013) regarding the

admissibility of evidence of results of a polygraph examination, or is such evidence admissible only pursuant to a stipulation of the parties under Evidence Code section 351.1?

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